



Appeal Decision

Site Visit made on 2 June 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Appeal Ref: APP/A1910/W/21/3268082

Land off Tring Road, Wilstone HP23 4PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rectory Homes Ltd against the decision of Dacorum Borough Council.
 - The application Ref 20/01754/MFA, dated 29 June 2020, was refused by notice dated 14 January 2021.
 - The development proposed is the erection of 28 no. residential dwellings (including 50% affordable housing) with access off Tring Road, including parking and garaging, creation of public open space, landscaping, and all enabling and ancillary works.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 28 no. residential dwellings (including 50% affordable housing) with access off Tring Road, including parking and garaging, creation of public open space, landscaping, and all enabling and ancillary works. at Land off Tring Road, Wilstone, HP23 4PD in accordance with the terms of the application, Ref 20/01754/MFA, dated 29 June 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Procedural Matter

2. Following the submission of this appeal, a revised version of the National Planning Policy Framework (the Framework) has been published. I have considered the proposals in the light of this revised document, having first given the parties an opportunity to comment on its content.

Main Issues

3. The main issues are:
 - the suitability of the site as a location for residential development; and
 - the effect of the development upon the character and appearance of the surrounding area.

Reasons

Suitability of the site

4. The appeal site is located on the periphery of Wilstone, which is a relatively small settlement. The settlement primarily contains residential accommodation, although there are some commercial and residential facilities. The appeal site consists of an undeveloped field.

5. I have been directed towards Policies CS1 and CS2 of the Dacorum Core Strategy (2013) (the Core Strategy). Amongst other points, these state that development be directed towards a hierarchy of settlements; and that development should be located in a sequential hierarchy of locations. In addition, Policy CS7 refers to the provision of small-scale residential developments but requires compliance with Policies CS1 and CS2. Small-scale is not defined within the local plan.
6. The development plan therefore seeks to direct new residential developments to larger settlements, which would contain the full range of services and facilities that residents would require, such as education and healthcare. In consequence, the development would conflict with the Development Plan given that the residents would need to travel to other settlements in order to access the full range of services that they are likely to require.
7. However, the harm arising from this is not of a large degree as whilst Wilstone is not a big settlement, it does benefit from some services and facilities that are in walking distance of the appeal site. In addition, whilst not extensive, Wilstone also benefits from a bus service. Therefore, residents would be able to use some services in the village and would also have an alternative to private cars for some potential journeys.
8. The proposed development would be for 28 dwellings. The development is therefore of a relatively large size, although in the context of the scale of the existing settlement, the proposal would not represent a disproportionate extension to the settlement. In addition, the proposal would include areas of open space, which would reflect the site's more rural surroundings. These would assist in ensuring that the development would not appear significantly disproportionate.
9. In addressing this point, I have been referred to Paragraph 72 of the Framework (referred to in the evidence as Paragraph 71 of a previous iteration of the Framework). However, the provisions of this paragraph do not apply to the development before me as it is not an entry-level exception site, suitable for first time buyers.
10. I therefore conclude that the proposed development would not be sited on the most suitable site for a residential development, albeit the level of harm would be limited. The development would therefore conflict with Policies CS1, CS2 and CS7 of the Core Strategy.

Character and appearance

11. The appeal site consists of an undeveloped field, surrounded by hedges. The character of Wilstone can be characterised as being broadly residential in nature, with dwellings arranged in a linear form. However, the appeal site is adjacent to Grange Road, which contains dwellings of a more recent construction. These are arranged around a cul-de-sac. The appeal site is near to a canal.
12. I have been directed towards Policies CS1, CS10 and CS20 of the Core Strategy. These state, amongst other matters, that the rural character of the borough will be conserved; that developments respect defined countryside borders and the landscape character surrounding the town or village; and the

scheme is of a scale and design that respects the character, setting and form of the village and surrounding countryside.

13. The proposed development would result in an extension of the village. This would mean that the more open character of the appeal site would be eroded due to its change from a field to a more urban setting. In addition, the development would feature dwellings arranged in patterns that would contrast with the more common predominantly linear form of the settlement. In consequence, the development would conflict with the character and appearance of the surrounding area. This would amount to harm.
14. Having established that some harm would emanate from the proposed development, it is necessary to consider the level of harm that would result. Whilst the proposal would result in a loss of open green space (albeit not with public access), views into the site are limited due to the dense hedges that act as boundary treatments. In addition, the sizes of the hedge are such that some views of the development would be obscured.
15. I also note that the proposed development includes an open, grassed area to one side. This would reduce the overall effect of the proposal due to the development being concentrated in a portion of the appeal site.
16. Whilst the character of Wilstone can be generally defined as the provision of developments arranged in a linear form, the appeal site is next to Grange Road. In summary, this comprises a large cul-de-sac of a more modern construction. The appeal proposal would be viewed alongside Grange Road due to the proximity of the two developments.
17. This means that the appeal site would be viewed alongside Grange Road due to the proximity of the development to the existing road.
18. The appeal site is near to the canal and Wilstone Wharf. Whilst these structures are partially screened from the appeal site, they are apparent in part. This means that the side of the appeal site would be viewed against a more engineered backdrop given that the height and massing of Wilstone Wharf. In addition, the canal is not a natural feature of the landscape and contains several items of related built infrastructure. This includes items such as a bridge and locks.
19. Whilst the appeal site has previously been used for agriculture, the site's lack of prominence means that the loss of this activity would not have a significant effect of the area's character. These features, when combined, mean that the proposed development would not appear significantly divergent from the surrounding area.
20. The development would include an area of open space adjacent to one side, which would provide a physical delineation between the more built up form of Wilstone and the canal area, whilst retaining the more spatially separate Wilstone Wharf.
21. In addition, from the appeal site, it is possible to view several buildings in the wider area. Whilst such views are generally relatively fleeting and occur of parts of buildings only, they contribute to a more developed character of the vicinity. In consequence, the erosion of the area's character would be relatively small.

22. Although of a more modern design, the proposed dwellings would be viewed against a varied backdrop, which includes dwellings in Wilstone of differing ages, styles and proportions. In result, the proposed development would not appear significantly discordant in this context. In addition, it would be possible to control the materials from which the proposed development would be constructed, in addition to window detailing. These measures would ensure that the built form of the development is of an acceptable appearance.
23. Furthermore, it would be possible to impose conditions that would ensure the provision of landscaping within the development. This would allow for the development to assimilate, to some degree, with its surroundings and also allow for the provision of trees and other planting within the public realm and streets of the development.
24. Therefore, whilst the proposal would result in harm to the character and appearance of the vicinity, this harm would be of a moderate level due to the immediate context relating to the surroundings of the appeal site and the design and layout of the scheme before me. However, the development by reason of the presence of such harm would result in a breach of Policies CS1, CS10 and CS20 of the Core Strategy.

Other Matters

25. Whilst the development would result in the loss of a field, the evidence before me is not indicative of their being a shortage of agricultural land in the vicinity. I also do not believe that the development would have an adverse effect on protected species. The proposed development would also include some replacement landscaping.
26. The proposed development would increase the use of the highway system. However, the proposed development would include various items of highway works, in addition to a bus stop and pedestrian links. Therefore, I do not believe that the proposal would result in an adverse effect on the highway system or highway safety.
27. The proposed development includes a Sustainable Urban Drainage System. Therefore, the development is unlikely to have an adverse effect upon flood risk.
28. I acknowledge concerns regarding potential future developments. However, in assessing this development, I have had regard to the specific individual circumstances of the appeal site and its environs as well as the current housing land supply position. Therefore, I do not believe that this decision will prejudice future decision making by the Council as each planning decision should be made on its own merits.

Legal Agreement

29. By reason of the scale of the development, a legal agreement is required. The submitted document includes the provision of affordable housing, which is important given the amount of weight that can be attributed to the provision of this type of accommodation.
30. In addition, the legal agreement would secure the provision of on-site open space and Sustainable Urban Drainage. These are of importance to ensure that

the development assimilates with its surroundings, that residents have places to undertake recreation and to ensure that flood risk is not increased.

31. The legal agreement would also secure the provision of a bus shelter. This is necessary and reasonable to ensure that the occupiers of the proposed development have appropriate access to public transport.

Conditions

32. In addition to the standard implementation condition, a condition specifying the approved plans is necessary in the interests of precision. In addition, conditions requiring the provision of highway works, parking, manoeuvring spaces, visibility splays and a pedestrian crossing are necessary and reasonable in the interests of highway safety.
33. In order to ensure that the proposed development does not have an adverse effect upon the occupiers of existing dwellings, a condition requiring the agreement of a Construction Management Plan is appropriate. Owing to the potential impacts of works undertaken at an early stage of the construction process, this needs to be a pre-commencement condition.
34. Given the rural surroundings of the appeal site, a condition requiring the submission, and implementation of landscaping and tree protection measures are necessary. Again, owing to the timing of some of these works, some pre-commencement conditions are required.
35. In order to ensure that the proposed development does not have an adverse effect on the surrounding area and to ensure that appropriate living conditions are provided, conditions regarding the protection of the nearby canal during the construction process, foundation design and contamination are necessary. Some of these would need to be pre-commencement conditions to ensure that investigations are undertaken in a timely manner.
36. Owing to the need to provide appropriate living conditions for the occupiers of the development, conditions regarding the undertaking of noise assessments, a canal link footpath and electric vehicle charging points are necessary and reasonable.
37. The proposed development would result in development outside of the existing settlement. Therefore, to ensure that future additions and alterations do not lead to a more significant adverse effect on the character and appearance of the surrounding area, is considered that these special circumstances warrant the removal of some permitted development rights.

Planning Balance

38. The evidence before me indicates that the Council cannot demonstrate a five-year housing land supply. In consequence, the provisions of Paragraph 11(d) of the Framework are invoked. This states that planning permission should be given for a development unless the benefits are significantly and demonstrably outweighed. This is referred to as the 'tilted balance'.
39. In this instance, the benefits of the development are 28 additional new dwellings. Of these dwellings, half could be secured for occupation on affordable tenures. In result, this would represent a reasonably sized

contribution towards the provision of housing within the vicinity. I give this a significant amount of weight.

40. I acknowledge the Council's concerns regarding the type of affordable housing to be provided within the development. However, even if I were to agree with this view, I would still find that the development would be in conformity with the Framework in that a variety of different house types would be provided, which would appeal to several different groups in society. Furthermore, the proposal would, to some degree make a contribution to addressing local need for new housing in the surrounding area.
41. In addition, the proposed development would generate some economic benefits arising from the construction process and support of local facilities, albeit these benefits would be of a limited amount. Therefore, they can only be given a limited amount of weight.
42. However, I can only give the harm to the character and appearance of the surrounding area a moderate amount of weight due to the limited effects arising from the design and positioning of the development and a limited amount of weight to the harm arising from the location of the development.
43. Therefore, having applied the 'tilted balance', I conclude that the harm arising from the development does not significantly and demonstrably outweigh the benefits.
44. I am conscious of the steps being taken by the Council to address the lack of a five-year housing land supply. However, at this juncture there is not one in place and therefore the appeal should be determined with reference to the 'tilted balance'.
45. In result, the harm arising from the development is not significantly and demonstrably outweighed.

Conclusion

46. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted, subject to conditions.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Plans:

Bin and Bike Store floor plans and elevations – P.220.BS.01
Detached garage floor plans and elevations – P.220.DG.01
Detached garage floor plans and elevations – P.220.DG.02
Location Plan – P.220.LP.01 Rev
Proposed site plan – P.220.SP.01 Rev P
Proposed surface materials and boundary plan – P.220.SP.02 Rev A
Proposed material plan – P.220.SP.03 Rev
Proposed parking plan – P.220.SP.04 Rev A
Proposed affordable housing tenure plan – P.220.SP.05 Rev A
Proposed street scenes – P.220.SS.01 Rev B
Plots 8-11 elevations – P.220.T553.01 Rev B
Plots 8-11 floor plans – P.220.T553.02 Rev A
Plots 6 and 7 elevations – P.220.T754.851.01 Rev A
Plots 6 and 7 floor plans – P.220.T754.851.02
Plots 4 and 5 elevations – P.220.T754.1003.01
Plots 4 and 5 floor plans – P.220.T754.1003.02
Plots 12-14 elevations – P.220.T851.01 Rev A
Plots 12-14 floor plans – P.220.T851.02
Plots 17 and 18 elevations – P.220.T851.03 Rev B
Plots 17 and 18 floor plans – P.220.T851.04
Plots 19 and 20 elevations – P.220.T953.02 Rev A
Plots 19 and 20 floor plans – P.220.T.953.03 Rev A
Plots 21 and 24 elevations – P.220.T974.01 Rev B
Plots 21 and 24 floor plans – P.220.T974.02 Rev A
Plot 15 elevations – P.220.T974.03 Rev B
Plot 16 elevations – P.220.T974.04 Rev B;
Plot 25 elevations – P.220.T974.05 Rev A
Plots 16 and 25 floor plans – P.220.T974.06 Rev B
Plot 15 floor plans – P.220.T974.07 Rev A;
Plots 3 and 26 elevations – P.220.T1334.01 Rev A
Plots 3 and 26 floor plans – P.220.T1334.02 Rev A
Plot 27 elevations – P.220.T1334.03
Plot 1 elevations – P.220.T1760.01 Rev A
Plot 1 floor plans – P.220.T1760.02
Plots 22 and 23 elevations – P.220.T1760.03 Rev A
Plot 28 elevations – P.220.T1760.04 Rev A
Plots 22 23 and 28 floor plans – P.220.T1760.05 Rev A
Soft landscaping plans – REC22889-11 Sheet 1 of 2
Soft landscaping plans – REC22889-11 sheet 2 of 2
Topographical Plan – G 9124/1 @ A

Documents:

Arboricultural Report (May 2020) by Sylva Consultancy

Flood Risk and Drainage Statement (June 2020) and Technical Note (October 2020) by Glanville

Heritage Assessment (May 2020) by Albion Archaeology

Preliminary Ecological Appraisal (June 2020) by Windrush Ecology Limited

Transport Statement (April 2020) by Glanville

3) No above ground works shall take place until 1:20 details of the new external joinery including glazing pattern, vertical and horizontal cross section details and finish have been submitted to, and approved in writing by, the Local Planning authority. These drawings shall show the window set within the surround. Development shall be carried out in accordance with the approved details and retained thereafter.

4) The development hereby approved, shall not be used, until the means of access, parking and circulation areas have been provided fully in accordance with drawings P220.SP.01 Revision P and P.220.SP.04 Revision A.

5) Prior to the commencement of development, full details of a pedestrian crossing at a location to be agreed in Tring Road shall be submitted to and approved in writing by the Local Planning Authority to illustrate the following:

i) An acceptable level of pedestrian to vehicular visibility in either direction, pedestrian dropped kerbs and tactile paving. Development shall be carried out in accordance with the approved details, prior to the first occupation of the development and shall be retained thereafter.

ii) The provision of access to adjacent farmland from the turning head between plots 16 and 26

6) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number P.220.SP.01 Revision P have been submitted to and approved in writing by the Local Planning Authority

7) The development hereby permitted shall not be occupied until the offsite highway improvement works referred to in Condition 6 shall be completed in accordance with the approved details.

8) Prior to the first occupation of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved plan number 8180891/6101 B (included within the Transport Statement, dated April 2020). The splays shall thereafter be retained at all times and be kept free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

9) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include details of:

- a) Construction vehicle numbers, type, routing;
- b) Swept path analysis for the largest anticipated vehicle to use the temporary access;
- c) Traffic management requirements;
- d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e) Siting and details of wheel washing facilities;

- f) Cleaning of site entrances, site tracks and the adjacent public highway;
- g) Timing of construction activities (including delivery times and removal of waste);
- h) Provision of sufficient on-site parking prior to commencement of construction activities; and
- i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

10) Notwithstanding the details submitted, no construction of the superstructure shall take place until full details of both hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority.

These details shall include:

- a) means of enclosure, including the materials and/or hedging plants to be used for any enclosures, together with the location of any hedgehog gates;
 - b) soft landscape works including a planting scheme with the number, size, species and position of trees, plants and shrubs;
 - c) finished levels and contours in relation to existing site levels, eaves and ridge heights of neighbouring properties;
 - d) any exterior lighting works; and
 - e) the siting and design of any bird boxes, bat boxes and other habitat creation.
- The planting must be carried out within one planting season of completing the development.

Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a similar species, size and maturity.

11) No development shall take place until the measures for the protection of trees have been provided in accordance with the Tree Protection Plan within the Arboricultural Report by Sylva Consulting dated May 2020 Ref 20058. All protective measures shall remain in-situ and be free from the storage of construction material, plant and machinery for the duration of the construction period.

12) The development hereby approved shall not be occupied until a plan for the management, maintenance and ecological improvement of the public open space and site boundaries has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be maintained, and improvements implemented fully in accordance with the approved details.

13) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

14) If the Local Planning Authority is of the opinion that the report which agrees the above details, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted

to and approved by the Local Planning Authority which includes: (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and (ii) from the application of an appropriate risk assessment methodology.

15) In the event of contamination being identified in respect of Condition 14; no development approved by this permission shall be commenced until a Remediation Method Statement report; if required, has been submitted to and approved by the Local Planning Authority.

16) This site shall not be occupied, or brought into use, until:

- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition 15 above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority

17) Prior to the commencement of the development, a Risk Assessment and Method Statement shall be submitted and agreed by the Local Planning Authority which includes:

- a) details of any proposed protective fencing to be erected to safeguard the waterway infrastructure and canal towpath boundary during the construction process;
- b) a method of preventing pollution of the ditch and canal (if hydraulically linked) from overland flows or polluted groundwater during the construction process;
- c) an assessment of the risk to canal assets and if pilling methods are to be used the need for vibration monitoring to protect the canal and lock infrastructure during the course of construction; and
- d) a timetable for the implementation and retention of the above.

All works shall be carried out in accordance with the approved details, be implemented in accordance with the agreed timetable.

18) Prior to the commencement of development, full details of foundation designs shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.

19) Plots 1, 22, 23 and 28 shall not be occupied until an assessment of noise has been undertaken to determine whether there would be any noise nuisance arising from commercial operations to the north of the application site and the need for mitigation measures has been submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved detail prior to the first occupation of these specific dwelling and shall be retained thereafter.

20) The development, hereby approved, shall not be occupied until full details of the Electric Vehicle Charging Points including the type of charger, power supply and a scheme for the maintenance and management of charging points has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to occupation and shall thereafter be retained.

21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 1995 (As Amended) or any revisions thereto there shall be no development falling within the following schedules to the specified units without the express planning permission of the Local Planning Authority

- i) Schedule 2 Part 1 Class A – Plot 18
- ii) Schedule 2 Part 1 Classes B and C - Plots 1, 2, 3, 15, 16, 19, 20, 24, 25, 26 and 27
- iii) Schedule 2 Part 2 Class A – All plots

22) The development, hereby approved, shall not be occupied until full details of a footpath link to the Grand Union Canal have been submitted to and approved in writing by the Local Planning Authority. The approved footpath shall be constructed in accordance with the approved details prior to the completion and occupation of the last dwelling and retained thereafter.

Richborough Estates